

6755

I N   S E N A T E

March 6, 2014

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Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to removing the exemption of the state insurance fund from licensing and other requirements; to amend the workers' compensation law, in relation to requiring the superintendent of insurance to approve the rules adopted by the state insurance fund for the conduct of its business; and to amend the workers' compensation law, in relation to the requirement for policyholders to provide 30 days notice to withdraw from the state insurance fund

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Section 1108 of the insurance law, subsection (c) as  
2     amended by chapter 838 of the laws of 1985, subsection (j) as added by  
3     section 2 of part R of chapter 56 of the laws of 2010, subsection (k) as  
4     added by chapter 181 of the laws of 2012, subsection (l) as added by  
5     chapter 246 of the laws of 2012, subsection (l) as relettered and  
6     subsection (m) as added by chapter 203 of the laws of 2013, is amended  
7     to read as follows:  
8     S 1108. Insurers exempt from licensing and other requirements. The  
9     following insurers, their officers, agents, representatives and employ-  
10    ees shall be exempt from licensing and other requirements imposed by the  
11    provisions of this chapter (except article seventy-four hereof) to the  
12    extent specified below:  
13    (a) Any charitable annuity society which complies with the require-  
14    ments of section one thousand one hundred ten of this article, to the  
15    extent therein stated.  
16    (b) Any fraternal benefit society, membership corporation or other  
17    organization exempted under the provisions of article forty-five of this  
18    chapter, to the extent therein stated.  
19    [(c) The state insurance fund of this state, except as to the  
20    provisions of subsection (d) of section two thousand three hundred thir-  
21    ty-nine, section three thousand one hundred ten, subsection (a), para-  
22    graph one of subsection (b), paragraph three of subsection (c) and

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [ ] is old law to be omitted.

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subsection (d) of section three thousand two hundred one, sections three thousand two hundred two, three thousand two hundred four, subsections (a) through (d) of section three thousand two hundred twenty-one, subsections (b) and (c) of section four thousand two hundred twenty-four, section four thousand two hundred twenty-six and subsections (a) and (b) and (g) through (j) of section four thousand two hundred thirty-five of this chapter and except as otherwise specifically provided by the laws of this state.

(d)] (C) Any corporate trustee or board of trustees acting pursuant to the banking law in relation to the fund for insurance of deposits in savings banks or the fund for insurance of shares of savings and loan associations.

[(e)] (D) Any corporation, organized under the laws of any state, solely to provide gratuitously for support or relief of the priests, clergy or ministers of any religious denomination, or their dependents, is exempt from all provisions of this chapter, except that any such corporation, created by special act of incorporation of this state, which by the provisions of such act is subject to the requirement of examination by, and making annual reports to, the superintendent, shall be subject to the provisions of article three of this chapter relating to examinations and statements or reports by insurers.

[(f)] (E) Any retirement system or pension fund that was doing business on January first, nineteen hundred forty under the education law, the civil service law, the mental hygiene law, any special act of incorporation of this state, or any municipal charter adopted under the laws of this state, exclusively for the benefit of the members of such system or fund or for all or any classes of the employees of this state or any municipality thereof, shall be exempt from the provisions of this chapter, except that if the law under which such system or fund was organized subjects it to examination by, and the making of annual reports to, the superintendent, such system or fund shall be subject to the provisions of article three of this chapter relating to examinations and statements or reports by insurers.

[(g)] (F) Any membership corporation or voluntary association organized and operating in this state prior to January first, nineteen hundred thirty-nine and its members may act as indemnitors of a licensed property/casualty insurance company in respect to surety bonds or policies of insurance required to be filed by such members pursuant to section three hundred seventy of the vehicle and traffic law and are exempted from the requirement of having an insurer's license; but no such membership corporation or association shall become a surety on any such bond or otherwise do an insurance business.

[(h)] (G) Any relief department or pension plan of any common carrier subject to the [the] Railroad Retirement Act of 1974 (45 U.S.C. S 31), whose privileges and membership are confined to employees or former employees of such carrier or its affiliated or subsidiary companies, or to any association of such common carriers which administers any such department or plan.

[(i)] (H) Every blood credit system established by a city, pursuant to section twenty-one-d of the general city law.

[(j)] (I) Any group of employers authorized by the workers' compensation board to provide workers' compensation benefits for the employees of all member employers pursuant to subdivision three-a of section fifty of the workers' compensation law.

1 [(k)] (J) A charitable bail organization holding a certificate issued  
2 by the superintendent pursuant to section six thousand eight hundred  
3 five of this chapter.

4 [(l)] (K) An institution of higher education, as defined in paragraph  
5 two of subsection (a) of section one thousand one hundred twenty-four of  
6 this article, that has a certificate of authority from the superinten-  
7 dent and complies with the requirements of section one thousand one  
8 hundred twenty-four of this article, to the extent therein stated.

9 [(m)] (L) A freelancers association, as defined in section one thou-  
10 sand one hundred twenty-five of this article, that obtains and maintains  
11 a demonstration program waiver from the superintendent and complies with  
12 the requirements of section one thousand one hundred twenty-five of this  
13 article, to the extent therein stated.

14 S 2. Paragraph 2 of subsection (a) of section 4522 of the insurance  
15 law is amended to read as follows:

16 (2) Organizations which limit their membership to the employees of a  
17 particular city or town, or of a designated business corporation or  
18 firm, or of one or more business corporations or firms having business  
19 interests in common, except as otherwise provided in subsection [(f)]  
20 (E) of section one thousand one hundred eight of this chapter. Any such  
21 organization which limits its membership to the employees of a corpo-  
22 ration having more than five thousand employees may provide for hospi-  
23 tal, surgical and medical benefits for the employee, his or her spouse,  
24 and his or her child or children not over eighteen years of age.

25 S 3. Section 83 of the workers' compensation law, as amended by chap-  
26 ter 34 of the laws of 2010, is amended to read as follows:

27 S 83. Rules. The [commissioner] COMMISSIONERS shall adopt rules for  
28 the conduct of the business of the state fund, and may from time to time  
29 alter, amend or repeal any rule therefore adopted. At least six affirma-  
30 tive votes shall be required for the adoption of any rule, or the amend-  
31 ment or repeal of any rule. No rule, and no resolution proposing to  
32 alter, amend or repeal any rule, shall be effective unless approved by  
33 the [commissioner of labor. If the commissioner of labor fails to act  
34 upon any such rule or resolution within thirty days after it is communi-  
35 cated to him or her, such rule or resolution shall be deemed to have  
36 been approved] SUPERINTENDENT OF INSURANCE.

37 The rules of the commissioners shall provide for the conduct of the  
38 business of the state insurance fund, including the issuance of policies  
39 and their terms and conditions, the fixing of premium rates, the keeping  
40 of records, auditing of payrolls, and the billing and collection of  
41 premiums therefor, the inspection of risks and the setting of the stand-  
42 ards of safety, the adjustment and payment of claims and awards, and the  
43 investigation of all matters relating thereto, the medical examination  
44 of persons claiming compensation and the furnishing and supervision of  
45 medical and surgical treatment to persons injured as set forth in this  
46 chapter, the conduct of the legal business of the fund and the enforce-  
47 ment of the subrogated rights of the fund against third parties, the  
48 investment of the surplus and reserves of the fund, and the collection  
49 and analysis of statistics of payrolls, premiums, losses and expenses  
50 and the actuarial consideration thereof.

51 S 4. Subdivision a of section 94 of the workers' compensation law, as  
52 amended by chapter 635 of the laws of 1996, is amended to read as  
53 follows:

54 a. Any employer may, upon complying with subdivision two or three of  
55 section fifty of this chapter, withdraw from the fund by turning in his  
56 insurance contract for cancellation, [provided he has given written

1 notice to the fund of his intention to withdraw not less than thirty  
2 days before the effective date of such cancellation] ALONG WITH WRITTEN  
3 NOTICE OF THE EFFECTIVE DATE OF THE CANCELLATION. Upon receipt of such  
4 notice the fund shall[, at least ten days prior to the effective date]  
5 file in the office of the chairman a notice of such cancellation date.  
6 [In no event shall the insurance contract be deemed cancelled until at  
7 least ten days after the date of such filing, any earlier date mentioned  
8 in the notice to the contrary notwithstanding.]  
9 If an employer withdraws from the fund upon complying with subdivision  
10 two of section fifty of this chapter, the new insurance contract with  
11 the stock corporation, mutual corporation or reciprocal insurer shall be  
12 deemed not to take effect until the cancellation of such employer's  
13 contract with the state insurance fund has become effective.  
14 S 5. This act shall take effect on the ninetieth day after it shall  
15 have become a law; provided that the amendments to subsections (l) and  
16 (m) of section 1108 of the insurance law made by section one of this act  
17 shall not affect the expiration of subsection (l) and the repeal of  
18 subsection (m) and shall expire and be deemed repealed therewith.